



**TESTIMONY OF DENNIS BOOKEY**

1. My name is Dennis Bookey. I am a partner in Kodiak Broadcasting Company, Inc. ("Kodiak Broadcasting"), licensee of stations KVOK(AM) and KRXX-FM, located in Kodiak, Alaska. Kodiak Broadcasting purchased KVOK(AM) and KRXX-FM from Cobb Communications, Inc. on April 3, 2000. When Kodiak Broadcasting purchased KVOK(AM) and KRXX-FM, it knew it was possible, but thought it improbable, that Peninsula might resume its unauthorized broadcasts into the Kodiak area. Peninsula's competition in the Kodiak market lowers the market value and the sales price of KVOK(AM) and KRXX-FM.

2. For some time prior to January 2001, Peninsula Communications, Inc. ("Peninsula") had been re-broadcasting non-commercial religious programming in the Kodiak area. Peninsula became a competitor of Kodiak Broadcasting in January 2001, when it resumed its unauthorized commercial broadcasting in Kodiak on KPEN-FM and ~~KP~~WVWV-FM, and continued until Peninsula's Kodiak translator was turned off on August 29, 2002. David Becker, Peninsula's owner, issued a statement on that date in which he claimed that Alaska exemptions to the FCC rules allow him to use his translators. He vowed to continue to litigate his right to use the translators to rebroadcast his primary stations, intimated that he pioneered the radio services in Kodiak, and insinuated that the Kodiak community is very small and isolated and in need of Peninsula's services.

3. Contrary to Mr. Becker's assertions, Kodiak is the second largest island in the United States, second only to Hawaii. It has a population of approximately 15,000 people. Kodiak is annually listed as one the three largest commercial fishing ports in the

Federal Communications Commission

Docket No. 02-21 Exhibit No. EB 33

Presented by EB

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| Disposition | { | Identified | <u>9-26-02</u>    |
|             |   | Received   | <u>9-26-02</u>    |
|             |   | Rejected   | <u>          </u> |

Reporter E. Thomas

Date 9-26-02

United States based on pounds of fish landed. It is Alaska's largest fishing port, the transportation hub for southwestern Alaska and is the home of the largest Coast Guard station in the United States. The City of Kodiak, at the northeastern tip of the island, is about 250 miles south of Anchorage. Seven roundtrip flights a day take place between Anchorage and Kodiak. In addition to Kodiak Broadcasting's local commercial radio stations, it has a longstanding public radio station and a non-commercial, religious station broadcasting to the Kodiak community. There is also a public television, KMXT-TV, license to Kodiak.

4. Although Peninsula quickly re-entered the Kodiak market in January of 2001, it subsequently put little effort into soliciting advertising in Kodiak. Nevertheless, Peninsula's resumption of its commercial broadcasts into Kodiak had an immediate and significant adverse effect on the business of Kodiak Broadcasting. Kodiak Broadcasting promptly lost \$21,000 in annual revenues because of lost advertising from just two of its accounts, and estimates that it has lost approximately \$30,000 in local advertising revenue to date. That is a large loss of revenue in such a small market. Kodiak Broadcasting is unable to determine the national and regional revenue that it has lost due to Peninsula's unauthorized broadcasts into Kodiak, but estimates it to have been a larger loss than the loss of local advertising. If Peninsula resumes its broadcasts into Kodiak and aggressively solicits advertising directed to the Kodiak market, Kodiak Broadcasting estimates that its losses will be much higher than it has experienced to date.

5. Peninsula's re-entry into Kodiak's commercial market caused Kodiak Broadcasting to lose advertising revenue in several ways: (1) Peninsula's additional commercial stations diluted the listening audience, thus reducing Kodiak Broadcasting's

audience market share. That has the potential to lower the advertising rates that Kodiak Broadcasting could charge and collect. (2) Peninsula undercut the rates of Kodiak Broadcasting so that Kodiak Broadcasting was required to ~~reduce~~<sup>evaluate</sup> its rates in order to stay competitive in the market. For example, Peninsula offered substantial discounts to advertisers who would pay cash up front. (3) Competition from Peninsula reduced the advertising budgets of advertisers who advertised with Kodiak Broadcasting because many advertisers, who would otherwise advertise solely with Kodiak Broadcasting, then divided their advertising budget between Kodiak Broadcasting and Peninsula in order to have advertising on each commercial station broadcasting in Kodiak. For example, Mack's Sport Shop, Kodiak's largest sports shop, transferred a significant portion of his advertising budget to Peninsula soon after Peninsula resumed its commercial broadcasts in Kodiak. (4) Some advertisers moved all of their advertising from Kodiak Broadcasting to Peninsula. For example, the owner of another advertiser, Seward Dry Dock, left Kodiak Broadcasting because he had previously advertised with Peninsula, desired one-buy coverage in Kodiak and Homer (which only Peninsula through the use of its unauthorized translators could offer) and had an advertising credit with Peninsula that he wanted to use.

6. Because of its unauthorized translators, Peninsula's broadcasts covered a much larger geographic area than any of its competitors. As a result, Peninsula marketed its stations to advertisers as "super stations" that advertisers could use to advertise peninsula-wide, and reach the Kenai/Soldatna, Homer, Seward and Kodiak markets, with one advertising buy. The "super station" concept contributed to Peninsula's ability to undercut the advertising rates of its competitors. Because Peninsula could charge an

advertising fee for each of the markets where its advertisements were broadcast (and the translators allowed those advertisements to be broadcast in more markets) Peninsula was financially able to charge a cheaper rate per spot than its competitors. Peninsula would often include the Kodiak market at a greatly reduced or “give-away” rate in order to attract advertisers who wanted to advertise peninsula wide. National accounts and state-wide and regional political campaigns typically advertised only with Peninsula because, with one buy, the agency or campaign could reach the entire Kenai peninsula as well as Kodiak Island for its client.

7. Kodiak Broadcasting was also placed at a competitive disadvantage by Peninsula because Peninsula’s costs in the Kodiak market were significantly lower than Kodiak Broadcasting’s full-power station. Peninsula maintained its programming staff in Homer. Peninsula had no studio in Kodiak. Its expenses in Kodiak were limited to maintaining its translator and covering the costs of any sales efforts made. Thus, as a practical matter, any money spent for advertising in Kodiak went to Homer, where Peninsula is located; little or none stayed in or benefited the Kodiak community.

8. As a full-service and community-oriented licensee, Kodiak Broadcasting, owns and maintains a local studio housing its two stations and employs six full-time employees and one part-time employee. Both KVOK(AM) and KRXX-FM broadcast live local programming daily. Each station also offers live remote broadcasts from events of community interest. Additionally, Kodiak Broadcasting often contributes free air-time and/or prize and monetary donations to community causes. The increased costs associated with these functions and services include not only the mortgage, insurance, utility, studio and broadcast equipment and building maintenance costs associated with

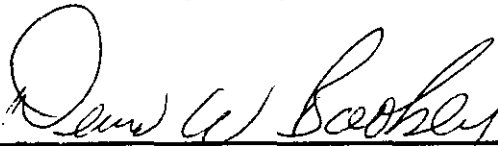
maintaining and using a local studio building, but the staff required to broadcast locally, including staff expenses for attending community events; the music library necessary to broadcast live shows; the entertainment-related subscriptions necessary to offer games and contests in order to entertain the audience; the additional equipment and staff required for remote broadcasts, and the prizes and free air-time contributed to worthy community causes.

9. Kodiak Broadcasting proudly serves the Kodiak community through news programming, public affairs programming, youth activities and other community services. Each weekday two announcers host a two-hour, open-line, call-in show on KVOK(AM) to broadcast family announcements, "Travelers reports" or off-shore greetings, political discussion and community-related topics. A live morning news show is also broadcast daily. Because Kodiak has the state's largest commercial fishing industry and the country's largest Coast Guard station, and because Kodiak is subject to severe weather and tsunami's, Kodiak's residents are particularly focused on marine and local weather reports. Kodiak Broadcasting, therefore, broadcasts full-marine-weather and local weather forecasts twice each hour. Additional weather updates, in the event of bad weather, are also regularly broadcast. These reports are relied upon by Kodiak's large commercial fishing fleet.

10. Kodiak Broadcasting maintains memberships in the local Chambers of Commerce and Rotary Clubs and its staff regularly attend luncheons and meetings regarding community-related matters. Kodiak Broadcasting has an active, physical presence, at community events. It sponsors and broadcasts sporting events at local schools, and broadcasts live coverage of festivals, Crab Feast, Coast Guard events and boat

christenings, parades and other events of community interest. Kodiak Broadcasting also donates air-time to non-profit organizations. Peninsula, on the other hand, has spent little time or effort serving Kodiak. Normally, if Peninsula was not getting paid to participate in a local event, its representatives did not attend the event. For example, Peninsula broadcast live from Comfish, a large, local commercial fishing exposition, primarily because a local advertiser sponsored that broadcast. Peninsula's presence in Kodiak has basically been limited to selling advertisements and providing music. While of some importance, these activities are not, and have never been, the essence of public service.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 12th day of September, 2002.

  
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Dennis Bookey